

AMENDED IN SENATE JUNE 27, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 258

**Introduced by Assembly Member Krekorian
(Principal coauthor: Assembly Member Feuer)
(Coauthors: Assembly Members Huffman, Karnette, and
Portantino)**

February 5, 2007

An act to add Chapter 5.2 (commencing with Section 13367) to Division 7 of the Water Code, relating to ~~the~~ water quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 258, as amended, Krekorian. Water quality: plastic discharges.

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with authority over matters relating to water quality. The state board and the regional boards prescribe waste discharge requirements for the discharge of waste in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. A person who discharges waste into the waters of the state in violation of waste discharge requirements, or other order or prohibition issued by a regional board or the state board, is required upon the order of that regional board or the state board, to clean up the waste or to abate the effects of

the waste. The act authorizes the state board or a regional board to issue a cleanup or abatement order.

This bill would require the state board and the regional boards, by January 1, 2009, to implement a program for the control of discharges of preproduction plastics from point and nonpoint sources, including waste discharge, monitoring, and reporting requirements that at a minimum, target facilities that handle preproduction and nonpoint sources involved in the transfer of preproduction plastic, and the implementation of specified *minimum* best management practices for the control of discharges of preproduction plastic. The state board would be required, when developing the program, to consult with *any* regional ~~boards~~ board with plastic manufacturing, handling, and transportation facilities *located within the regional board's jurisdiction that have* ~~has~~ already voluntarily implemented a program to control discharges of preproduction plastic. The state board would also be required to establish criteria for submittal of the no exposure certification by certain plastic manufacturing and processing facilities. A plastic manufacturing and process facility that is given a no exposure certification would not be required to implement ~~the any other~~ best management practices *for the control of preproduction plastic*, if all manufacturing, loading, unloading, and storage activities occur within the certified facility; ~~unless required by the state board or a regional board. The state board would be required to establish a fee schedule sufficient to pay for the costs of implementing and administering the program. The bill would require an entity that manufactures, handles, distributes, or transports preproduction plastic to apply for coverage under a specified stormwater discharge permit, and would require the permit fees to be used by the state board to implement the preproduction plastic requirements.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The increasing problem of marine debris ~~is~~ *can be* harmful
- 4 to marine resources, particularly species that ingest or become
- 5 entangled in ~~floating~~ *that* debris.

~~(b) Plastic is the most common type of marine debris, comprising up to 90 percent of floating marine debris.~~

~~(c) The problem of plastic marine debris is increasing in California and the North Pacific Gyre, where densities of microplastics have tripled during the last decade.~~

~~(d) Plastics are especially harmful to the marine environment due to plastics' nondegradable qualities.~~

~~(e) Thermoplastic resin pellets, commonly known as "nurdles,"~~

~~(b) Thermoplastic resin pellets, plastic powders, and production scrap, all of which have been can be mistaken as food by marine life, are a significant source of beach pollution. One survey conducted in the summer of 1998 estimated that over 100 million nurdles were polluting Orange County beaches alone. This represented over 98 percent of all the pollution collected in terms of abundance and 17 percent in terms of weights..~~

~~(f) Plastics can contain potentially harmful constituents such as phthalates, bisphenol A, styrene, perfluorooctanoic acid, vinyl chloride, and flame retardants.~~

~~(g) Nurdles have been shown to adsorb chemicals from ambient seawater. Concentrations of pollutants, such as polychlorinated biphenyls and dichlorodiphenyldichloroethylene have been found to be up to one million times higher on nurdles than levels detected in surrounding seawater.~~

~~(h)~~

~~(c) Approximately 60 billion pounds of nurdles resin pellets are manufactured annually in the United States alone.~~

~~(i) The presence of resin pellets~~

~~(d) The presence of plastic resin pellets and other litter is not unique to United States beaches and waters. Studies have shown an international proliferation of nurdles in the plastic resin pellets and other litter in the international marine environment.~~

~~(j) Plastic and other debris litter our beaches and represent~~

~~(e) Litter found on our beaches represents a threat to California's \$46 billion ocean-dependent, tourism-oriented economy, and in certain circumstances may pose a public health threat.~~

~~(k)~~

~~(f) State and local agencies spend millions of dollars per year in litter collection.~~

~~(t)~~

(g) The majority of trash capture best management practices, such as catch basin inserts, are not designed to capture ~~nurdles~~ *resin pellets*. The typical mesh in a catch basin insert is five millimeters while the ~~nurdles~~ diameter of *resin pellets* is one to two millimeters.

~~(m)~~

(h) A coordinated effort among state agencies is necessary to create a comprehensive response to reduce the ~~harmful effects of marine debris~~ *presence of marine debris litter*.

~~(n)~~

(i) Increased control over industrial discharges will reduce the amount of plastics entering the aquatic environment.

~~(o)~~

(j) Eliminating marine debris *litter* from the world's oceans is a universal goal for government, industry, businesses, and individuals.

SEC. 2. Chapter 5.2 (commencing with Section 13367) is added to Division 7 of the Water Code, to read:

CHAPTER 5.2. ~~PLASTIC DEBRIS ERADICATION~~ *PREPRODUCTION PLASTIC DEBRIS PROGRAM*

13367. (a) For purposes of this chapter, "preproduction plastic" includes plastic ~~pellets, plastic resin products~~ *resin pellets*, powdered coloring for plastics, plastic additives, and plastic fragments.

(b) (1) The state board and the regional boards shall implement a program to control discharges of preproduction plastic from point and nonpoint sources.

(2) The state board, when developing this program, shall consult with any regional board with plastic manufacturing, handling, and transportation facilities located within the regional board's jurisdiction that has already voluntarily implemented a program to control discharges of preproduction plastic.

(c) The program control measures shall, at a minimum, include waste discharge, monitoring, and reporting requirements that target facilities that handle preproduction plastic and nonpoint sources involved in the transfer of preproduction plastics.

(d) The program shall, at a minimum, require plastic manufacturing, handling, and transportation facilities to implement

1 best management practices to control discharges of preproduction
2 plastics. *A facility that handles preproduction plastic shall comply*
3 *with either subdivision (e) or the criteria established pursuant to*
4 *subdivision (f).*

5 ~~(e) At a minimum, the best management practices shall include~~
6 ~~all of the following:~~

7 *(e) At a minimum, the state board shall require the following*
8 *best management practices:*

9 ~~(1) Zero-loss~~ Appropriate containment systems shall be installed
10 at all storm drains that are down-gradient of areas where
11 preproduction plastic is present or transferred. ~~A zero-loss~~
12 ~~containment system facility shall install a containment system that~~
13 is defined as a device or series of devices that traps all particles
14 retained by a one millimeter mesh screen and has a design
15 treatment capacity of not less than the peak flowrate resulting from
16 a one-year, one-hour storm in the subdrainage area. *In a situation*
17 *where the regional board determines that a one millimeter or*
18 *similar mesh screen is not appropriate, the regulated facility and*
19 *regional water board shall work collaboratively to identify and*
20 *implement technically feasible alternative storm drain control*
21 *measures that are designed to achieve the same performance as*
22 *a one millimeter mesh screen.*

23 ~~(2) At all points of transfer, preproduction plastic shall be~~
24 ~~received in completely sealed containers. The container shall be~~
25 ~~watertight and durable enough so as not to rupture under typical~~
26 ~~loading and unloading activities.~~

27 ~~(3) At all points of preproduction plastic storage and transfer,~~
28 ~~preproduction plastic shall be stored in a manner that prevents~~
29 ~~discharge. Storage containers must be sealed, watertight, and~~
30 ~~durable enough so as not to rupture under typical loading and~~
31 ~~unloading activities.~~

32 *(2) At all points of preproduction plastic transfer, measures*
33 *shall be taken to prevent discharge, including, but not limited to,*
34 *completely sealed containers durable enough so as not to rupture*
35 *under typical loading and unloading activities.*

36 *(3) At all points of preproduction plastic storage, preproduction*
37 *plastic shall be stored in completely sealed containers that are*
38 *durable enough so as not to rupture under typical loading and*
39 *unloading activities.*

(4) At all points of storage and transfer of preproduction plastic, capture devices shall be in place under all transfer valves and devices used in loading, unloading, or other transfer of preproduction plastic.

(5) A facility shall ~~have a vacuum system available~~ *make available to its employees a vacuum or vacuum type system*, for quick cleanup of fugitive preproduction plastic.

(f) The state board shall establish criteria for submittal for the no exposure certification requirement by plastic manufacturing and process facilities subject to the national pollutant discharge elimination system permitting requirements pursuant to Section 122.26 of Title 40 of the Code of Federal Regulations and the no exposure certification requirements pursuant to Section 122.26(g) of Title 40 of the Code of Federal Regulations.

(1) The criteria shall include specific procedures, controls, and best management practices necessary to achieve the zero discharge of preproduction plastic from facilities manufacturing and processing preproduction plastics.

(2) The no exposure certification shall be required annually.

(3) “No exposure” means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff. Industrial materials and activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, byproducts, and final products, or waste products. Material handling activities include storage, loading and unloading, transportation, or conveyance, of a raw material, intermediate product, byproduct, final product, or waste product.

(g) If a plastic manufacturing and processing facility is given a no exposure certification and all manufacturing, loading, unloading, and storage activities occur within the certified no exposure facility, the facility is not required to implement ~~the any other~~ best management practices pursuant to subdivision (d), *unless required by the state board or the regional boards: practices for the control of preproduction plastic.*

~~(h) The state board shall establish a fee schedule sufficient to pay for the costs of implementing and administering the program established under this chapter.~~

(h) An entity that manufactures, handles, distributes, or transports preproduction plastic shall be required to apply for

1 *coverage under the a general permit for storm water discharges*
2 *associated with industrial activities. General permit fees required*
3 *pursuant to this section shall calculated in accordance with Section*
4 *2200 of Title 23 of the California Code of Regulations, and the*
5 *revenue generated from the fees shall be used by the state board*
6 *to implement this chapter.*

7 (i) The state board and the regional boards shall implement this
8 chapter by January 1, 2009.

9 (j) Nothing in this chapter limits the authority of the state board
10 or the regional boards to establish requirements in addition to the
11 best management practices for the elimination of discharges of
12 preproduction plastic.